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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,768	07/19/2000	Masataka Fukuizumi	000810	1751

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EXAMINER

GORDON, BRIAN R

ART UNIT PAPER NUMBER

1743

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/619,768

Applicant(s)

FUKUIZUMI ET AL.

Examiner

Brian R. Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-38, 41-43 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-38 and 41-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 27, 2004 has been entered.

Response to Arguments

2. Applicant's arguments filed February 27, 2004 have been fully considered but they are not persuasive. Applicant asserts Nakajima et al. and Ginsburgh do not teach or suggest "continuously discharging or disposing of the liquid during the gas-bubbling operation so as to eliminate impurities from the liquid." The phrase or argument is directed to intended use, a method conducted with the use of the device rather than structural limitations. Furthermore the argument is not commensurate in scope with that of the claims for there is no mentioning of any structure to support such an argument. While it appears that applicant intent maybe directed to the operation of the device as determined by the controller, there is no mentioning that the controller operates to continuously and simultaneously discharge undissolved chemical gas and a predetermined amount of liquid chemical solution from the preparation tank.
3. In response to applicant's argument that continuously discharging or disposing of the liquid fuel during the gas-saturating operation so as to eliminate impurities from a

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mixing receptacle 20, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

For the reasons given above the 102 rejections as under Nakajima and Ginsburgh and the 103 rejection over Nakajima in view of Sakamoto Naoki are hereby maintained.

4. Applicant's arguments, see page 26, filed February 27, 2004, with respect to the Nelson patent have been fully considered and are persuasive. The 102 and 103 rejections under Nelson have been withdrawn.

Drawings

5. The proposed drawing corrections were received on February 27, 2004. These drawings are acceptable.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 13, 17, 18, 19, 24, 29, and 42-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the claims a first pipe or a gas supply line and a first valve arranged in the first pipe or gas supply line. Each claim also claims a second and third valve. However, while the purpose or intended operation of each valve is given, there is no structural limitations recited to link the second and third valves with the other claimed elements. Applicant should positively claim a second and third pipe or gas discharge line and liquid chemical discharge line connected to the preparation tank and further specify that the second and third valves are located therein, respectively. As presently, claimed it is unclear where the second and third valves are located.

As to claims 42 and 43, the claims as presently drafted appear to be directed to process limitations. It appears as if applicant is intending to claim that the controller is programmed to perform specific functions. As such, the examiner suggest applicant amends the claims to recite wherein the controller is programmed to perform the functions claimed.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 13-15, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakajima et al.

Nakajima et al. discloses a device that includes a container adapted to treat the substrate with the liquid chemical agent, the container having an inlet and an outlet;

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circulation means connecting the inlet and the outlet of the container, and having a circulation pump; a liquid reservoir; a gas supply; and a gas-liquid mixer for synthesizing the liquid chemical agent connected to the liquid reservoir and gas supply, and having an outlet for the liquid chemical agent connected to the circulation means. The device includes chemical concentration detection means disposed in the circulation means; and means for regulating the mixing ratio of the gas to the liquid connected to the Chemical concentration detection means and the mixer (concentration adjusting means).

The chemical concentration detection means may be a sensor for detecting a pH of the liquid chemical agent. Alternatively, the chemical concentration detection means includes a light source arranged to emit a light beam through the liquid chemical agent; means for detecting the intensity of the light beam passing through the liquid chemical agent; and means for correlating the intensity of the light beam detected with the concentration of a specific chemical in the liquid chemical agent.

The device comprises a pure water supply system 7 that includes a pure water supply 30 (preparation tank for storing a liquid) and pipe conduit 11 and gas supply system with conduits 41, 51; gas supply 40, 50; gas regulators 43, 53. The device further comprises mixing unit 17 (dissolution unit), gas outlet 17d that has an electric motor operated valve 18 that is capable of controlling the discharge of undissolved gas, and liquid outlet 17d that comprises valve 19 (discharge control units).

10. Claims 13-16, 23, 29, 34, 38, and 41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginsburgh et al. US 6,293,525.

Ginsburgh et al. disclose an efficient and economical mixing apparatus 10 for exposing a controllable and/or optimal volume of inert gas such as CO₂ to a controllable and/or optimal volume of hydrocarbon fuel (e.g. Jet fuel, Diesel fuel, engine fuels, fuel oils and the like). The mixing apparatus 10 comprise at least one mixing receptacle 20 (preparation tank) suitable for the mixing of fuel 24 and inert gas 18 therein, with mixing receptacle 20 having at least one controllable fuel inlet/coupling means 32 to receive hydrocarbon fuel from a hydrocarbon fuel supply (storage tank) as directed by fuel control means 26, and at least one controllable gas inlet/coupling means 30 to receive inert gas such as CO₂ as directed by gas control means 28 from a controllable inert gas supply comprising one or more inert gas. Controllable inert gas inlet/coupling means 30 optionally includes the control means to determine fixed inert gas pressures, send pure inert gas through the mixing receptacle, and/or provide a variable range of inert gas pressures, including when appropriate, negative pressures. The device further comprises diffuser 40 (bubbler).

It is noted that fuel control means 26 can optionally be supplied by any one or more of a variety of fuel sources including fuels suppliable in various temperatures such as chilled fuel, and/or fuel otherwise optimized for inert gas absorption such as hydrocarbon fuel with additional light hydrocarbon atoms. Similarly, inert gas such as CO₂ can readily be stored in a chilled non-gaseous state e.g. liquid (cooling unit) or solid and used as an inert gas supply—including a gas supply that when expanding during phase conversion provides a naturally occurring positive pressure source.

Mixing receptacle 20 has one or more safety-enhanced or improved combustion fuel outlet/coupling means 36 (liquid discharge), which is connectable with an inert gas-enriched fuel distribution means such as outlet control means 46, to convey safety-enhanced fuel as needed. The control means 26, 28 and 46, are comprised of any one or more in a variety of known control device(s) such as automated, computer-controlled, or manually controlled, pump(s), valve(s), re-circulating device(s), manifold(s), and the like. Alternatively, the mixing receptacle(s) 20 can also comprise any one or more in a variety of known measuring and/or monitoring means 78, such as monitoring, measuring, reporting device(s) and/or instruments used to measure or regularly sample pressure, temperature, chemistry composition, gas concentration levels (concentration measurements), and the like, including the incorporation of monitoring means communication signal 80 with receptacle-content control means 82 (fuel control means 26, inert gas control means 28, and safety-enhanced fuel control means 46, inclusively) in order to facilitate the automation of optimal mixing of the inert gas in the hydrocarbon fuel. Communication signal 80 can be transmitted through a suitable conduit connected between monitoring means 78 and any one or more of the control means, or alternatively can be transmitted by wireless transmission, in which case monitoring means 78 and any one or more of the control means are comprised of communicating transmitter(s) and receiver(s) respectively.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 13-16, 20-23, 29, 34-35, 37-38, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nurmi.

Nurmi discloses a system and method for saturating a gas with a vapor from a liquid chemical. The system includes: (a) a saturation vessel (dissolution unit) connected to receive a liquid chemical and a carrier gas; (b) a gas sparger (bubbler) in the saturation vessel for sparging the carrier gas into the liquid chemical; (c) means for

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maintaining the liquid chemical in the saturation vessel at a substantially constant level; (d) means for controlling the temperature of the liquid chemical in the saturation vessel to a desired value, comprising (i) a system for cooling the liquid chemical, and (ii) a heater inside the saturation vessel extending vertically in the liquid a distance at least half of the height of the liquid chemical level for heating the liquid chemical; and (e) means for controlling the pressure of the saturated gas to a desired value. The invention also relates to novel methods and systems for controlled delivery of a vaporized liquid chemical. The invention has particular applicability to the semiconductor manufacturing industry.

A carrier gas is delivered from a carrier gas source 102 through line 104 to a saturation vessel or bubbler 106, which contains a volatile liquid chemical. The carrier gas is bubbled through the liquid chemical in the saturation vessel 106 to form a saturated gas of desired concentration. The carrier gas source 102 can be, for example, a gas cylinder or a bulk storage vessel.

The device comprises liquid supplies 108, 110 that store the liquid chemical.

Liquid containers 108, 110 are connected through a system of tubing and valves to allow the liquid chemical to be introduced into the saturation vessel 106. The tubes used to transport the liquid chemical through the system are preferably flexible hoses constructed of Teflon lined stainless steel. Containers 108, 110 can be connected to the saturation vessel by individual lines that converge into a single line 112. Optionally, one or more additional saturation vessels can be supplied with the liquid chemical via branch lines 112', 112".

Various connections on the saturation vessel are preferably disposed at a top portion thereof. A first connection 122 is connected to the liquid supply system described above, for introducing the liquid chemical into the saturation vessel. The first connection 122 includes a manual valve V3 connected to a tube that penetrates through the top of the saturation vessel and extends nearly to the vessel bottom. Preferably, the tube extends to within a few inches of the vessel bottom. Second connection 124 is connected by tubing to the carrier gas supply 102 for introducing the carrier gas into the saturation vessel. Second connection 124 includes a manual valve V4 connected to a tube that penetrates through the top of the saturation vessel. The end of the tube of second connection 124 is connected to a gas dispersing structure 126 which has perforations through which the carrier gas flows and is dispersed into the liquid chemical.

Preferably, the dispersing structure 126 includes a plurality of sintered metal tubes and is disposed at or near the bottom of the saturation vessel. The gas dispersing structure permits fine bubbles to be produced in the liquid chemical to allow intimate contact between the carrier gas and the liquid chemical.

As the carrier gas is introduced into the liquid chemical, bubbles pass up through the liquid chemical, eventually becoming saturated with the chemical vapor. The saturated vapor is removed from the saturation vessel through a third connection 134 which includes a manual valve V5. The saturated vapor exiting the saturation vessel is conducted through tubing 138 to the point of use, for example, one or more semiconductor processing tools. The tubing can be divided downstream into a plurality

of branch lines 140, 142 and 144 for this purpose. One of the branch lines can optionally be connected to an analytical tool, such as a concentration sensor, for verification of the saturated gas product.

The saturation vessel preferably includes a fourth connection 146 which allows one to remove any remaining liquid chemical from the vessel when the vessel is to be serviced. The fourth connection 146 includes a manual valve V6 connected to tubing which penetrates through the top of the saturation vessel and extends to the bottom of the vessel.

To ensure a substantially constant vapor/liquid contact time between the carrier gas and liquid chemical, it is important that the liquid chemical in the saturation vessel be maintained at a substantially constant level. The liquid level can be controlled by various means. In accordance with an exemplary aspect of the invention, the liquid content in the saturation vessel is preferably controlled by monitoring the mass or weight of the saturation vessel. For this purpose, a mass or weight scale 148 can be disposed beneath the saturation vessel to continuously measure the mass or weight of the vessel. A signal from scale 148 is sent to a controller 150 which controls operation of the liquid supply system based on the weight measurement. Controller 150 sends a signal to a valve 152 which it continuously controls the flux of liquid introduced into the saturation vessel to maintain a constant liquid level therein.

To prevent condensation of the chemical vapor in the saturated gas, the liquid chemical in the saturation vessel is cooled to a desired temperature below ambient temperature.

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Nurmi does not specifically recite that all of the valves are controlled via a controller.

However Nurmi, does teach "the liquid level in each of the containers is preferably monitored by a low level sensor connected either to an alarm system set up for manual operation of shutoff valves V1, V2 or, alternatively, with feedback to a controller which automatically controls operation of shutoff valves V1 and V2."

As such it would have been obvious to one of ordinary skill in the art at the time of the invention, to recognize that all of the valves including valve V6 may be automatically controlled to reduce the demand of manual labor and increase the efficiency of operation of the apparatus.

As to claims 21-22, Nurmi does not specifically refer to the element that produces the bubbles within the vessel as a nozzle. However, it is obvious that the element may be referred to as a nozzle. As to the inclination of the nozzle, which is a design modification that allows for the bubbles to contact a deflection plate in the vessel to control the flow of the bubbles upward through the liquid, the examiner hereby asserts that such a structure design is well known in the art for controlling the flow of fluid in a circulation tank. For example, in aeration systems it is well known to employ "baffles" (deflection plates) to control or divert the flow or circulation of fluid in the systems.

15. Claims 20-22, 30-31, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al. as applied to claims 13-15, 23, 29, 34, 37, and 38 above, and further in view of Sakamoto Naoki, JP 6-37080.

Nakajima et al. does not specifically recite that the device comprises an inclined nozzle to produce bubbles that contact a deflection plate.

Sakamoto discloses a device in which a line is used to bubbling a gas into a chemical solution for the fabrication of semiconductor wafers.

It is obvious that the line inserted in the chemical solution may be referred to as a nozzle. As to the inclination of the nozzle, which is a design modification that allows for the bubbles to contact a deflection plate in the vessel to control the flow of the bubbles upward through the liquid, the examiner hereby asserts that such a structure design is well known in the art for controlling the flow of fluid in a circulation tank. For example, in aeration systems it is well known to employ "baffles" (deflection plates) to control or divert the flow or circulation of fluid in the systems.

As to claim 31, it would have been obvious to one of ordinary skill in the art to purify the gas to be used in the fabrication process. For example, it is well known in the art of manufacturing semiconductors via deposition processes (such as CVD) that purified gases (free of unwanted contaminants) are used.

As to claim 36, it would have been obvious to employ a common means such as a filter to separate the gas from the solution. The process of removing a gas from a liquid by using a filter that is permeable only to gas allows for the removal of bubbles or recycling of unused gas to maintain a system that operates at a high efficiency level.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

brg



JAN LUDLOW
PRIMARY EXAMINER